

U.S. DEPT. OF COMMERCE  
Alexandria, Virginia 22313-1450  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,347	09/25/2001	J. Fernando Bazan	DX0903K1	9754

28008 7590 04/28/2004

DNAX RESEARCH, INC.  
LEGAL DEPARTMENT  
901 CALIFORNIA AVENUE  
PALO ALTO, CA 94304

EXAMINER
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CHERNYSHEV, OLGA N

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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042804

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached.

## **Attachment to form PTO-90C**

The amendment to the claims filed on March 08, 2004 does not comply with the requirements of 37 CFR 1.121(c).

Applicant submits a copy of the claims filed on September 19, 2003 as an evidence that at the time of filing claim 25 was present among claims 21-32, therefore, it should have been included in the examination (bottom at page 4 of the Response). However, the original copy of claims submitted on September 19, 2003 entered and currently present on file in the instant application clearly indicates the omission of claim 25. Because claim 25 was not present among the claims submitted in the amendment of September 19, 2003, the numbering of the claims was found to be not in compliance with 37 CFR 1.126 (see reasons of record in section 2 of Paper mailed on December 08, 2003). Thus, misnumbered claims 21-24 and 26-32 have been renumbered as 21-31.

The amendment to the claims filed on March 08, 2004 maintains the original numbering of the claims, which includes the allegedly originally presented claim 25. Applicant is advised that the current proposed amendment is not entered because it clearly does not correspond to the previous version of claims 21-31.

Amendments to the claims filed after March 1, 2001 must comply with 37 CFR 1.121(c) which states:

**(c) Claims.**

(1) Amendment by rewriting, directions to cancel or add: Amendments to a claim must be made by rewriting such claim with all changes (e.g., additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

(i) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

(ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(i) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

Since the reply filed on March 08, 2004 appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga N. Chernyshev whose telephone number is (571) 272-0870. The examiner can normally be reached on Monday to Friday 9 AM to 5 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on (571) 272-0871. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Certain papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax

center located in Crystal Mall 1 (CM1). The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by Applicant or Applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers.

Official papers filed by fax should be directed to (703) 872-9306. If this number is out of service, please call the Group receptionist for an alternative number. Faxed draft or informal communications with the examiner should be directed to (571) 273-0870. Official papers should NOT be faxed to (571) 273-0870.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Olga N. Chernyshev, Ph.D.

  
**OLGA N. CHERNYSHEV, PH.D.**  
**PATENT EXAMINER**